

Translation

PATENT COOPERATION TREATY

PCT Rec'd PCT/PTO

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference SAGEM/03/PCT	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/FR2004/000672	International filing date (day/month/year) 19.03.2004	Priority date (day/month/year) 24.03.2003
International Patent Classification (IPC) or national classification and IPC		
Applicant SAGEM S.A.		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 8 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

a. ☒ (sent to the applicant and to the International Bureau) a total of 4 sheets, as follows:

☒ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the report
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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International application No.

PCT/FR2004/000672

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-13 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 1-16 _____ received by this Authority on 12.03.2005 with the letter of 07.03.2005
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/9-9/9 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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International application No.

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	1-16	YES
	Claims		NO
Inventive step (IS)	Claims	1-16	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-16	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
A. Box V:			
1. The following remarks are based on a version of claim 1 that <u>satisfies the requirements</u> of <u>PCT Article 6</u> , in particular in conjunction with PCT Rule 6.3(b) (see point C. below).			
2. Claim 1 concerns a telephone communications system comprising a radiotelephone terminal that has a radiocommunications module and a data encryption/decryption module, the radio-communications module comprising an interface modem module that drives a modem, the encryption/decryption module comprising an encryption/decryption circuit for encrypting or decrypting data items or voice data and a vocoder circuit that receives voice data to be encrypted or decrypted from the radio communications module, said system further comprising a media drive with a smart card microcircuit and software switching means that allow the routing of data items, received by or output from the terminal			
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Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

via the radio circuit or via external connection means, to appropriate modules for the provision of encrypted or non-encrypted communications.

A system of this type is already known from document DE 101 40 544 A1, considered to be the prior art closest to the subject matter of claim 1.

The essential difference between the claimed system and that known from document DE 101 40 544 is that at least one command from a displayed menu is provided on a display means of the terminal, by means of which command it is possible to select the mode for conversation or data transmission.

In document DE 101 40 544 A1, conversation and data transmission communications are commonly encrypted or non-encrypted dependent on whether the encryption (ciphering) mode of the terminal is activated or deactivated.

3. The claimed system allows a combination of different modes of communication, namely conversation or data transmission, with flexibility in the selection of said modes using a command from a displayed menu to allow selection of the conversation or data transmission mode.

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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4. No such system is disclosed, or suggested, by the prior art cited above or in the international search report, whether said prior art documents are read singly or in combination.

Thus, the subject matter of claim 1 is novel (PCT Article 33(2)) and is likewise considered to involve an inventive step (PCT Article 33(3)).

5. Claims 2 to 16 are dependent on claim 1 and therefore, as such, also satisfy the conditions of the PCT in respect of novelty and inventive step (PCT Article 33(2) and (3)).
6. The present application is also industrially applicable (PCT Article 33(4)).

B. Further remarks concerning the form and the disclosure of the application:

Pursuant to PCT Rule 5.1(a)(ii), the description should have cited documents DE 101 40 544 A1 and EP-A-O 957 651, which represent the closest prior art, and briefly discussed the relevant prior art contained therein.

C. Further observations with regard to the clarity of the claims:

The following amendments should have been made:

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1. Claim 1 does not meet the requirements of PCT Article 6 in so far as the subject matter for which protection is sought is not clearly defined and, in particular, in that said claim does not contain the **technical features essential** to the definition of the invention and therefore fails to satisfy the requirements of PCT Article 6 in conjunction with PCT Rule 6.3(b). The reasons are the following: the essential concept underlying the invention, as defined in the general description of the invention (see the description, page 2 line 29 to page 3, line 4), concerns the transmission of encrypted conversation and the transmission of encrypted data using an encryption/decryption module.

Furthermore, the (novel) feature of claim 1, concerning a command from a displayed menu, and the selection of a conversation or transmission mode is essentially linked to the use of software switching means in that the data (voice or data item) are routed, or are not routed, to the encryption/decryption module by the communications means dependent upon whether the selected mode of communication is encrypted or non-encrypted (see the description, for example page 3, lines 17-28).

These essential features, whereby the selection from a menu of a mode of communication

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(conversation or transmission), which is or is not encrypted, is linked to the use of switching means in order to route, or not to route, the data of a communication to the encryption/decryption module, cannot be derived from claim 1 as currently drafted.

2. In **claim 1**, the features "command from the displayed menu" and "the conversation or transmission mode" lack clarity (PCT Article 6) since said features assume that a displayed menu and a conversation or transmission mode have already been introduced in said claim, which is not the case in this instance.
3. Pursuant to PCT Rule 10.2, the terminology and reference signs must be consistent throughout the application. This requirement has not been fulfilled in that the expressions "**data**" and "data items" are used for the same feature (see the description in its entirety and the claims, in which the expression "voice data" is used for a different feature).
4. In the interest of clarity (PCT Article 6) and consistency (PCT Article 6), the feature "radiocommunications module (10)" according to the expression "the radiocommunications module (10) includes a switch" in **claim 3** should be replaced by the expression "a second software switching

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means (24)" (in particular, see the description, page 7, lines 18-22; claim 2 with the description, page 7, lines 14-17).

5. The observations in point 4. above apply likewise to **claims 15 and 16** which, moreover, cannot be dependent on the claims preceding claim 3, in which the "routing (24)" was first described (PCT Article 6).